

Notice of Allowability

Application No.

10/723,123

Examiner

Padmavathi v. Baskar

Applicant(s)

SCHAAP ET AL.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/3/06.
2. ☒ The allowed claim(s) is/are 16-20 and have been renumbered as 1-5 respectively.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/411578.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 5/4/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 7/17/06.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

1. The amendment filed on 5/03/06 is entered.

Status of Claims

2. Claims 7-22 and 24-29 are pending
Claims 1-6 and 23 are cancelled.
Claim 16 is amended.
Claims 7-15, 21, 22 and 24-29 are withdrawn.
Claims 16-20 are under examination.

Examiner's amendment

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Aaron Schwartz on 7/17/06. The application has been amended as follows:

Claims 7-15, 21, 22 and 24-29 (Currently canceled).

Claim Rejections - 35 USC 112, first paragraph withdrawn

4. In view of amendment to the claim, the scope rejection of claims 16-20 under 35 U.S.C. 112, first paragraph is withdrawn.

Claim Rejections - 35 USC 112, second paragraph withdrawn

5. In view of amendment to the claim, the rejection of claims 16-20 under 35 U.S.C. 112, second paragraph is withdrawn.

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Claim Rejections - 35 USC 102withdrawn

6. In view of amendment to the claim, the rejection of claims 16-18 and 20 under 35 U.S.C. 102(b) as being anticipated by Karkhanis et al 1991 ((see IDS 11/26/03, AJ, Infection and Immunity, 59; 983-989) is withdrawn.

Remarks

7. The instant claims now define a vaccine for the protection of poultry against Eimeria infection comprising the hydrophilic polypeptide SEQ.ID.NO: 3.

Karkhanis et al 1991 do not disclose a vaccine comprising the hydrophilic polypeptide SEQ.ID.NO: 3 because the prior art does not specifically disclose the hydrophilic polypeptide containing a conserved part DFTPVCTTE of peroxidoxin molecule.

Conclusion

8. Claims 16-20 are allowed and have been renumbered as 1-5 respectively.

9. Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform to the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The Right Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PMR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Padma Baskar Ph.D., whose telephone number is ((571) 272-0853. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 6.30 a.m. to 4.00 p.m. except First Friday of each bi-week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on (571) 272-0864. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.



Padma Baskar Ph.D.



NITA MINNIFIELD
PRIMARY EXAMINER
8/4/00

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Clean copy of allowed claims:

16. A vaccine for the protection of poultry against *Eimeria* infection, comprising the hydrophilic polypeptide SEQ ID No:3 and a pharmaceutically acceptable carrier.

17. The vaccine according to claim 16, which additionally comprises an adjuvant.

18. The vaccine according to claim 16, which comprises at least one additional immunogen of a poultry pathogen.

19. The vaccine according to claim 18, wherein the at least one poultry pathogen is selected from the group consisting of *Marek's Disease virus* (MDV), *Newcastle Disease virus* (MDV), *Infectious Bronchitis virus* (IBV), *Chicken Anaemia Agent* (CAA), *Reovirus*, *Avian Retrovirus*, *Fowl Adenovirus*, *Turkey Rhinotracheitis virus*, *Salmonella* spp. and *E. coli*.

20. The vaccine according to claim 16 which is in freeze-dried form.